

Senate Bill No. 717

CHAPTER 610

An act to amend Sections 70, 70.2, 70.4, 70.8, 71.2, 71.4, 71.8, 72, 72.2, 76, 76.3, 76.5, 76.6, 86, 131, 133, 264, 300, 301, 302, 304, 305, 306, 307, 308, 505.5, 571, 652, 654.5, 658.3, 668.1, 738, and 780 of, to add Sections 309 and 310 to, to repeal Section 660.2 of, and to repeal Chapter 2.5 (commencing with Section 110) of Division 1.5 of, the Harbors and Navigation Code, relating to boating and waterways.

[Approved by Governor October 11, 2009. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 717, Runner. Boating and waterways: Department of Boating and Waterways.

Under existing law, the Department of Boating and Waterways regulates, among other things, harbors, ports, boating, and waterways pursuant to the Harbors and Navigation Code.

Existing law authorizes the department to acquire, construct, develop, and improve small craft harbors, subject to provisions that require the department to transfer these facilities to a county, city, or district, as specified, that requests that transfer and enters into an agreement to repay the state for acquiring and developing the harbor and that authorize the deferral of a local governing body's repayment of the costs to the state for these activities.

This bill would authorize, rather than require, a small craft harbor acquired or developed by the department to be transferred to a county, city, or district under specified circumstances. The bill would eliminate certain authority of the department to defer repayments required of a local governing body or reimburse deficiencies of revenues to allow a facility to meet operation and maintenance costs of a project.

Existing law authorizes the department, subject to approval of the Legislature as provided, to make loans to cities, counties, or certain districts for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection with the harbors and connecting waterways. The department is required to establish rules and regulations to be followed in making these loans that include certain policies and standards.

This bill would also authorize these loans for the design of the harbors and facilities.

Existing law authorizes the department to make loans to private marina owners to develop a recreational marina, which may be used for various

activities. Existing law limits a loan to a private marina owner to 75% of the funds annually budgeted for recreational marinas.

This bill would also authorize these loans for acquisition and would delete the limit on the loan amount.

Existing law requires loans under these provisions to include certain minimum terms and conditions, including, for loans for private marinas, a minimum annual rate of interest charged by the department of 1% per annum, as provided.

This bill would revise these loan conditions to provide that the annual interest rate charged for a loan shall be set annually by the commission, as described. The bill would authorize the department to restate existing loans, upon written request by the borrower, and upon approval by the commission.

Existing law requires a person 11 years of age or younger to wear a United States Coast Guard-approved life vest when aboard a motorboat, sailboat, or vessel that is underway.

This bill would apply this requirement instead to a person under 13 years of age.

Existing law makes it a misdemeanor to moor a vessel or hang on with a vessel to a buoy or beacon.

This bill would except from this prohibition designated mooring buoys.

Existing law requires the department, upon the request of the Director of Fish and Game, to perform various activities regarding efforts to control and eradicate *Caulerpa taxifolia* from the Agua Hedionda Lagoon in San Diego County.

This bill would delete this provision.

Existing law requires a person convicted of certain violations of the Harbors and Navigation Code to complete and pass a boating and safety course approved by the department. It is unlawful to operate a motorized vessel or have the engine of a motorized vessel run idle while an individual is teak surfing, platform dragging, or bodysurfing behind the motorized vessel or while an individual is occupying or holding onto the swim platform, swim deck, swim step, or swim ladder of the vessel.

This bill would impose the boating and safety course requirement on a person who violates this provision.

Existing law provides that a person who violates various provisions of the Harbors and Navigation Code is guilty of a felony, or is punishable by imprisonment in the state prison, for unspecified or specified timeframes.

This bill would provide that a person who violates these provisions is guilty of a felony and would establish the same maximum fine and imprisonment for all of these felony violations.

Existing law also provides that certain violations of the Harbors and Navigation Code are misdemeanors.

This bill would specifically state the penalty for these misdemeanor violations.

By increasing certain penalties for misdemeanor violations, this bill would impose a state-mandated local program.

Under existing law, local agencies are required to certify to the Department of Boating and Waterways that, for specified small craft harbor or boating facilities funded by the department, adequate shoreside facilities, as described, are provided or to provide written findings showing why the facility cannot certify to these conditions.

This bill would require local agencies to make that certification annually and for additional facilities, thereby imposing a state-mandated local program.

Existing law requires a city, county, or district that has received funds for the construction or improvement of small craft harbors that provide facilities for commercial fishing vessels to provide alternative equivalent facilities for commercial passenger fishing vessels and private recreational vessels.

This bill would require that alternative equivalent facility to additionally provide vessel pumpout facilities, oil recycling facilities, and receptacles for separating, reusing, or recycling solid waste materials, thereby imposing a state-mandated local program. The bill would also provide that a small craft harbor or boating facility constructed, developed, or improved with specified funds meet, at a minimum, applicable green building standards.

The bill would make technical, nonsubstantive changes to certain provisions of the Harbors and Navigation Code.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 70 of the Harbors and Navigation Code is amended to read:

70. The department may prepare plans for, and acquire, construct, develop, and improve, small craft harbors, facilities in connection with the harbors, and connecting waterways. A small craft harbor so acquired or developed may be transferred, and its operation relinquished, to a county or city, or a district having power to operate a small craft harbor, in which any part of it is located, upon the request of the city, county, or district, if the city, county, or district enters into an agreement with the department for repayment to the state of all costs incurred by the department in acquiring and developing the small craft harbor, including planning costs. The city, county, or district shall be required by the department to repay those costs.

The payments shall be made in the amounts and at the times that are provided by the agreement.

SEC. 2. Section 70.2 of the Harbors and Navigation Code is amended to read:

70.2. (a) The department may prepare or contract for the preparation of plans for, acquire or contract for the acquisition of, construct or contract for the construction of, develop and improve, or contract for the development and improvement of any portion of coastal small craft harbors that are normally nonrevenue producing, such as jetties, breakwaters, dredging, seawalls, piers, and communication centers.

(b) This program may be conducted in cooperation with the federal government for harbor development along the coastline of California. In those cooperative projects, the department may assume the role of “local sponsor” as that term is used in agreements with the federal government with regard to those projects referred to in this section if before the department assumes the role of “local sponsor” it determines to its satisfaction that the local entity that would otherwise be designated as local sponsor cannot fulfill the obligations commensurate with that designation.

(c) If the nonrevenue producing facilities are to be a portion of an existing harbor, the department, prior to construction of those facilities, shall enter into an agreement with the local governing body of the harbor that provides that revenues from harbor operations and harbor district taxes shall serve as security for repayment of the state contribution to the cost of construction and the local governing body shall assume responsibility for the operation and maintenance of the facilities constructed under the agreement.

(d) If nonrevenue producing facilities are to be constructed at a location where no harbor operation is being conducted by a governmental entity, the department may initiate construction of the facilities after securing an agreement with the appropriate local jurisdiction that the local entity shall assume the responsibility of operation and maintenance of the facilities, as well as repayment of all related costs of the department, as agreed to in writing.

(e) Harbor facilities provided by the department pursuant to this section shall be defined as nonrevenue producing features for the purpose of the term of repayment under subdivision (a) of Section 71.8.

SEC. 3. Section 70.4 of the Harbors and Navigation Code is amended to read:

70.4. No city, county, or district that has received, or is receiving, money under this division for the design, planning, construction, or improvement of a small craft harbor of refuge shall exclude, consistent with the intent of Section 40, the use of that harbor by a commercial boat, or any vessel in need of a safe harbor for refuge purposes. Each vessel entering and using a harbor of safe refuge pursuant to this section shall pay the published fees for services rendered while in the harbor and shall comply with all other applicable local, state, and federal laws while in the harbor and while using any facilities in the harbor.

SEC. 4. Section 70.8 of the Harbors and Navigation Code is amended to read:

70.8. The department may contract with a federal agency, state agency, or city, county, or district, in the design, planning, construction, development, and improvement of small craft harbors pursuant to this chapter, or for the maintenance and operation of any small craft harbors under the jurisdiction of the department.

SEC. 5. Section 71.2 of the Harbors and Navigation Code is amended to read:

71.2. (a) The department shall protect small craft harbors under its jurisdiction from damage and preserve the peace in those harbors. The director and the employees of the department that the director designates have the authority and powers conferred by law upon peace officers listed in Section 830.33 of the Penal Code for those harbors. The department may adopt rules and regulations that may be necessary for the purposes of this section. A violation of those rules or regulations is a misdemeanor.

(b) A person found guilty of a misdemeanor violation of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 6. Section 71.4 of the Harbors and Navigation Code is amended to read:

71.4. (a) (1) The department, subject to the approval of the Legislature in accordance with Section 85.2, may make loans to qualified cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the design, planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection with the harbors, and connecting waterways, if the department finds that the project is feasible.

(2) The minimum annual rate of interest charged by the department for a loan shall be set annually by the commission and shall be based on the Pooled Money Investment Account interest rate.

(b) The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. To the greatest extent possible, the department shall adhere to customary commercial practices to ensure that loans made pursuant to this section are adequately secured and that the loans are repaid consistent with the terms of the loan agreement. Any rules and regulations shall include policies and standards for restrooms, vessel pumpout facilities, oil recycling facilities, and receptacles for the purpose of separating, reusing, or recycling all solid waste materials.

(c) The department shall develop weighing and ranking criteria to qualify and prioritize the public loans.

(d) A loan under this section shall be repaid as provided in Section 70.

(e) Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the

department, in every loan contract. The department shall concern itself with the rates charged only as prescribed in Section 71.8. The rates set shall be based on a monthly berthing charge, and the department shall monitor these rates to ensure that the berthing charges are sufficient to ensure timely and complete repayment of the loan.

(f) The department shall submit any project for which it recommends any loan be made to the Governor for inclusion in the Budget Bill.

(g) The department may restate an existing loan under this article, upon written request by the borrower, and upon approval by the commission.

SEC. 7. Section 71.8 of the Harbors and Navigation Code is amended to read:

71.8. (a) A contract or agreement for a transfer pursuant to Section 70 or a loan pursuant to Section 71.4, for which gross revenues of a small craft harbor are made the security for repayment shall include, but is not limited to, provisions requiring the governing body of the city, county, or district to perform all the following:

(1) Punctually pay all installments of principal and interest on money owed to the state.

(2) Continuously operate in an efficient and economical manner all small craft harbor facilities acquired, constructed, improved, or completed in full or in part as a result of transfers or loans by the state.

(3) Make all repairs, renewals, and replacements necessary to the efficient operation of the small craft harbor facilities and to keep the facilities in good repair at all times.

(4) Preserve and protect the security interest of the state in all respects by procuring insurance on the facilities in an amount and of the type approved by the department.

(5) Subject to subdivision (c), periodically fix, prescribe, and collect fees, rentals, or other charges for services and facilities of the small craft harbor facilities sufficient to produce gross revenues adequate for payment of the following amounts in the order set forth:

(A) All installments of principal and interest on money owed the state as they come due.

(B) All expenses of operation, maintenance, and repair of the small craft harbor facilities.

(C) Any additional sums as may be required by the department for any sinking fund, reserve fund, or other special fund established for the further security of the loan or transfer or as a depreciation or other charge in connection with the small craft harbor facilities.

(6) Repay loans with regard to the revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 30 years.

(7) Repay loans with regard to the non-revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 50 years.

(b) The department may require the contract or agreement to include a requirement that installments of principal and interest on money owed the

state shall be paid from gross revenues prior to any other expenditures from those revenues. No loan of funds shall be made to a city, county, or district unless the loan is approved by the department as conforming to the policies established by the department. A contract or agreement shall not be effective until approved by the Department of General Services for legality, form, and completeness.

(c) The fees for the use of launching ramps in a small craft harbor shall not exceed the sum of the following:

(1) The costs of operation and maintenance of the launching ramp and related harbor facilities, including, but not limited to, access to the ramp from the shore and the ocean.

(2) The prorated capital costs of that portion of the facility which is determined by the governing body of the small craft harbor or boating facility to be necessary to pay amounts specified in paragraph (5) of subdivision (a).

(d) If the city, county, or district defaults on the payment of money owed the state, or otherwise fails to perform in accordance with the terms and conditions of the contract or agreement, the state shall recover the defaulted loan and the department may assume the operation and maintenance of the harbor or facility or enter into one or more contracts for its operation and maintenance.

SEC. 8. Section 72 of the Harbors and Navigation Code is amended to read:

72. (a) If the legislative body of a city, county, or district has acquired, constructed, or improved small craft harbor facilities pursuant to an agreement or contract for a transfer pursuant to Section 70, or a loan pursuant to Section 71.4, the facilities may not be leased in whole or in part to a private concessionaire or lessee until the legislative body has published a notice pursuant to Section 6066 of the Government Code inviting bids and has otherwise complied with this section. Prior to publication of the notice, the legislative body shall obtain the approval of the department to the proposed leasing of the harbor facility and to the terms and conditions of the proposed lease. The notice shall distinctly and specifically describe the harbor facilities that are to be leased and set forth the period of the time for which the facilities are to be leased, and the minimum rental to be paid under the lease. The notice shall recite that the lease will reserve to the legislative body the power to fix and determine the rates to be charged by the lessee for the use by the public of the facilities. The notice also shall prominently display the statement that award of the lease by the legislative body is subject to final approval by the department, and fix a time and place for the opening of bids by the legislative body.

(b) At the time and place fixed in the notice, the legislative body shall meet and consider all bids that have been submitted. The lease shall be awarded to the highest responsible bidder, but the award shall become final only after the award by the legislative body has been approved by the department.

SEC. 9. Section 72.2 of the Harbors and Navigation Code is amended to read:

72.2. (a) Notwithstanding other provisions of this chapter, if the legislative body of a city, county, or district has acquired, constructed or improved small craft harbor facilities pursuant to an agreement or contract for a transfer pursuant to Section 70 or a loan pursuant to Section 71.4 under circumstances in which the proposed lease area is land or water area and the terms of the proposed lease call for the lessee to install or construct all improvements, the land or water area may be leased by the legislative body without public bidding, but only after a public hearing, public notice of which shall be given by publication for not less than once a week for two weeks in a newspaper of general circulation published in the county in which the land lies.

(b) Prior to publication of the public notice the legislative body shall obtain the written approval of the department to the proposed leasing of the harbor facility and the provisions of the proposed public notice. The public notice shall describe the land or water area that is to be leased, describe in general terms the nature of the development desired by the legislative body, and set forth the period of time for which the land or water area is to be leased, and the minimum rental to be paid under the lease. The public notice shall recite that the lease will reserve to the legislative body the power to fix and determine the rates to be charged by the lessee for the use by the public of facilities developed by the lessee. The public notice also shall contain a prominent statement that award of the lease by the legislative body is subject to final approval by the department, and fix a time and place for the public hearing by the legislative body. The public notice shall invite proposals for leasing from any and all interested parties.

(c) At the time and place fixed in the public notice of hearing, the legislative body shall meet and consider the lease proposal submitted. The award of the lease shall become final only after the award by the legislative body has been approved by the department.

SEC. 10. Section 76 of the Harbors and Navigation Code is amended to read:

76. It is the intent of the Legislature that Harbors and Watercraft Revolving Fund moneys be used to implement the intent of Section 71.5 by providing loans directly to private recreational marina owners for the design, acquisition, development, expansion, and improvement of boating facilities. It is the further intent of the Legislature that borrowers receiving loans not charge unreasonably high boat berthing fees at their harbor facilities, but that those borrowers be entitled to charge rates that provide for servicing of borrowed indebtedness obtained to develop those facilities, provide for other expenses incurred in operating the facilities, establish reasonable reserves for repairs, maintenance, and replacement of those facilities, and provide a reasonable return on the borrower's invested capital.

SEC. 11. Section 76.3 of the Harbors and Navigation Code is amended to read:

76.3. (a) The department may make loans to private marina owners to develop a recreational marina. Loan funds from the department may be utilized for both of the following:

(1) Construction costs for berthing facilities, dredging, parking, public access facilities, restrooms, vessel pumpout facilities, oil recycling facilities, utilities, landscaping, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other incidental boating-related amenities.

(2) Acquisition, collateral appraisals, permit fees, planning, engineering, and design expenses directly related to the items specified in paragraph (1).

(b) The department shall not make a loan to a recreational marina that restricts access or bars the public other than that which is consistent with general commercial business practices.

(c) Any private marina owner who purchases facilities previously developed with a department loan is eligible to apply for a new construction loan from the department.

(d) (1) The department may also make a loan to a recreational marina for the purpose of refinancing an existing loan, subject to the following conditions:

(A) Not more than 70 percent of the proceeds from the loan shall be used to refinance an existing loan.

(B) Not less than 30 percent of the loan proceeds shall be used for construction activity authorized under this section.

(C) The loan applicant shall meet all other requirements under law for loan qualification and any other applicable term or condition of law.

(2) This subdivision does not prohibit a person from applying for a loan under subdivision (a).

SEC. 12. Section 76.5 of the Harbors and Navigation Code is amended to read:

76.5. In processing applications under this article, the department shall give priority to applications from qualified private marina owners who have not received previous loans from the department. If the department finds a proposed loan project is feasible, the loan request shall be submitted to the commission for its advice and consent.

SEC. 13. Section 76.6 of the Harbors and Navigation Code is amended to read:

76.6. Loans made under this article shall include, but are not limited to, the following terms and conditions:

(a) The minimum annual rate of interest charged by the department for a loan shall be set annually by the commission and shall be a rate equal to 1 percent per annum plus the prime or base rate of interest.

(b) The department shall require collateral in a minimum amount of 110 percent of the loan.

(c) The repayment period of a loan shall not exceed 20 years, or be longer than the length of the borrower's leasehold estate, including renewal options, if the loan is based upon a leasehold estate of the borrower.

(d) All loans shall amortize the principal over the term of the loan. However, a loan shall become due and payable in full if the borrower sells or otherwise transfers the recreational marina developed with departmental funds, unless the transfer is, by reason of the death of the borrower, to the borrower's heirs.

(e) The department's loans shall not be subordinated to any future loans obtained by a private marina owner, except in those cases involving loans acquired for refinancing previous senior loans.

(f) The department may allow assumption of loans from the original borrower by future parties, subject to completion of the application process and upon approval by the department and the commission.

(g) The department may, upon written request by the borrower, and upon the approval of the commission, restate an existing loan.

SEC. 14. Section 86 of the Harbors and Navigation Code is amended to read:

86. (a) The local public agency shall annually certify to the department that for a small craft harbor or boating facility project that is, or has been, funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from the State Lands Commission from tidelands oil revenues, adequate restroom and sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required pursuant to Section 776, walkways, oil recycling facilities, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other necessary shoreside facilities sufficient for the use and operation of all vessels using the harbor or facility are provided or provide written findings showing why the facility cannot certify to these conditions.

(b) A city, county, or district, which has received or is receiving money under this division for the construction or improvement of small craft harbors that provides facilities for the operation of commercial fishing vessels registered pursuant to Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall not prohibit the commercial operation and use of those facilities by commercial passenger fishing vessels of the same or similar displacement, which are licensed pursuant to Section 7920 of the Fish and Game Code, or the use by private recreational vessels unless otherwise expressly provided by law, unless the city, county, or district provides, elsewhere in the same harbor, alternative, equivalent facilities available at comparable cost for the commercial operation and use of commercial passenger fishing vessels and private recreational vessels or unless the city, county, or district adopts written findings showing why the existing facility cannot accommodate the operation of commercial fishing vessels, including commercial passenger fishing vessels, or private recreational vessels and why the facility cannot be modified to do so or why alternative, equivalent facilities cannot be provided in the same harbor to accommodate those operations. This subdivision does not require a facility to accept an application for the operation of an additional commercial passenger fishing boat at that facility if the harbor provides alternative, equivalent, adequate, safe facilities at comparable cost

for the operation and use of commercial passenger fishing boats or if accommodations for the operation of the additional commercial passenger fishing boat are not reasonably available at the facility under the contract or agreement.

For the purposes of this subdivision, an alternative, equivalent facility in the same harbor shall provide, at comparable cost, adequate restroom and sanitary facilities, parking, refuse disposal, vessel pumpout facilities, walkways, oil recycling facilities, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, power and water service, and other shoreside facilities and equivalent docks, water channels, navigation aids, and weather protection, including, but not limited to, breakwaters, which are equivalent to the facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

(c) (1) A loan, grant, contract or agreement, or plan funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 for a small craft harbor or boating facility project shall provide for construction, development, or improvement of facilities to meet the provisions of subdivisions (a) and (b), and provide vehicular access roads to the harbor or facility, as recommended by the Department of Transportation pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, unless the reasons for not meeting those provisions and recommendations are set forth in the contract or agreement with the department, or an addendum thereto.

(2) The small craft harbor or boating facility shall be designed, constructed, developed, improved, and operated to meet, at a minimum, applicable certification standards described in the Tier 1 standards of the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations).

(d) During the term of any existing or new loan contract made pursuant to Section 71.4, or 76.3, or any existing or new contract or agreement pursuant to Section 70, 70.2, or 70.8, the department shall supervise and monitor compliance with this section and the operation and maintenance of the harbor or facility to assure that the planning, construction, development, or improvement fully complies with this section and the contract or agreement terms and conditions.

(e) For the purposes of this chapter and Article 2 (commencing with Section 70) of Chapter 2, a harbor or facility that is the subject of a contract or agreement as described in subdivision (d), is under the jurisdiction of the department.

SEC. 15. Chapter 2.5 (commencing with Section 110) of Division 1.5 of the Harbors and Navigation Code is repealed.

SEC. 16. Section 131 of the Harbors and Navigation Code is amended to read:

131. (a) A person who unlawfully obstructs the navigation of any navigable waters is guilty of a misdemeanor.

(b) A person found guilty of a misdemeanor violation of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000) or

imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 17. Section 133 of the Harbors and Navigation Code is amended to read:

133. (a) Except in case of emergency imperiling life or property, or unavoidable accident, collision, or stranding, or as otherwise permitted by law, it is unlawful and constitutes a misdemeanor for a person to discharge, or suffer the discharge of, oil by any methods, means, or manner, into or upon the navigable waters of the state from any vessel using oil as fuel for the generation of propulsion power, or any vessel carrying or having oil in excess of that necessary for its lubricating requirements, and as may be required under the laws and prescribed rules and regulations of the United States and this state.

(b) As used in this section, the term “oil” means oil of any kind or in any form, including fuel oil, oil sludge, and oil refuse, and the term, “navigable waters of the state,” means all portions of the sea within the territorial jurisdiction of the state, and all inland waters navigable in fact in which the tide ebbs and flows.

(c) A person found guilty of a misdemeanor violation of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 18. Section 264 of the Harbors and Navigation Code is amended to read:

264. (a) A captain or other person having charge of any steam vessel used for the conveyance of passengers, or of its boilers and engines, who, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, or any apparatus or machinery connected with the boiler, by which bursting or breaking human life is endangered, is guilty of a felony.

(b) Notwithstanding any other provision of law, a person found guilty of a felony violation of this section shall be subject to a fine not to exceed five thousand dollars (\$5,000) or imprisonment in the state prison for 16 months, two or three years, or both that fine and imprisonment.

SEC. 19. Section 300 of the Harbors and Navigation Code is amended to read:

300. A person who willfully and maliciously cuts, breaks, injures, sinks, or sets adrift a vessel of less than ten gross tons that is the property of another is guilty of a misdemeanor.

SEC. 20. Section 301 of the Harbors and Navigation Code is amended to read:

301. A person who willfully and maliciously cuts, breaks, or injures a vessel of ten gross tons and upwards that is the property of another is guilty of a misdemeanor.

SEC. 21. Section 302 of the Harbors and Navigation Code is amended to read:

302. A person who willfully and maliciously sinks or sets adrift a vessel of ten gross tons and upwards that is the property of another is guilty of a felony.

SEC. 22. Section 304 of the Harbors and Navigation Code is amended to read:

304. A person in command or charge of a vessel, who, within this state, willfully wrecks, sinks, or otherwise injures or destroys it or any of its cargo, or willfully permits the same to be wrecked, sunk, or otherwise injured or destroyed, with intent to prejudice or defraud a person, is guilty of a felony.

SEC. 23. Section 305 of the Harbors and Navigation Code is amended to read:

305. A person, other than one described in Section 304 who is guilty of any act specified in that section is guilty of a felony.

SEC. 24. Section 306 of the Harbors and Navigation Code is amended to read:

306. A person who prepares, makes, or subscribes a false or fraudulent manifest, invoice, bill of lading, ship's register, or protest, with intent to defraud another, is guilty of a felony.

SEC. 25. Section 307 of the Harbors and Navigation Code is amended to read:

307. A person who moors a vessel to, or hangs on with a vessel to a buoy or beacon, except a designated mooring buoy, or who willfully removes, damages, or destroys, a buoy or beacon, placed by competent authority in any navigable waters of this state, is guilty of a misdemeanor.

SEC. 26. Section 308 of the Harbors and Navigation Code is amended to read:

308. A person who moors a vessel of any kind, to a buoy or beacon, except a designated mooring buoy, placed in the waters of the state by authority of the United States Coast Guard, or who in any manner hangs on to the same, with a vessel, or who willfully removes, damages, or destroys any such buoy or beacon, or any part of the buoy or beacon, or who cuts down, removes, damages, or destroys a beacon erected on land in this state by that authority, is, for every offense, guilty of a misdemeanor.

SEC. 27. Section 309 is added to the Harbors and Navigation Code, to read:

309. A person found guilty of a misdemeanor violation as provided in this chapter shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 28. Section 310 is added to the Harbors and Navigation Code, to read:

310. Notwithstanding any other provision of law, a person found guilty of a felony violation as provided in this chapter shall be subject to a fine not to exceed five thousand dollars (\$5,000) or imprisonment in the state prison for 16 months, two or three years, or both that fine and imprisonment.

SEC. 29. Section 505.5 of the Harbors and Navigation Code is amended to read:

505.5. (a) Whenever the lien upon any vessel is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vessel by the former lienholder claimant revives the lien, but a lien so revived is subordinate to any right, title, or interest of a person under a sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for a person to obtain possession of a vessel or any part of the vessel subject to a lien pursuant to the provisions of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for a person claiming a lien on a vessel to knowingly violate this article.

(d) A person found guilty of a misdemeanor violation of subdivision (b) or (c) shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 30. Section 571 of the Harbors and Navigation Code is amended to read:

571. (a) A person who takes away any goods from a stranded vessel, or any goods cast by the sea upon the land, or found in a bay or creek, or who knowingly has in his or her possession any goods so taken or found, and does not deliver them to the sheriff of the county where they were found, or notify him or her of his or her readiness to do so within 30 days after they have been taken by him or her or have come into his or her possession, is guilty of a misdemeanor.

(b) A person found guilty of a misdemeanor violation of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 31. Section 652 of the Harbors and Navigation Code is amended to read:

652. (a) The department may issue regulations to do all of the following:

(1) Establish minimum safety standards for boats and associated equipment.

(2) Require the installation, carrying, or using of associated equipment.

(3) Prohibit the installation, carrying, or using of associated equipment that does not conform with safety standards established pursuant to this chapter.

(b) The regulations shall conform with the federal navigation laws or with the navigation rules promulgated by the United States Coast Guard, or any successor thereto.

(c) A person or public agency shall not use or give permission for the use of a vessel that does not carry the equipment or meet the standards established pursuant to this chapter.

(d) A peace officer or harbor police officer authorized to enforce this chapter may order the termination of the operation of a vessel that is found to be unsafe for operation pursuant to Section 6550.5 of Title 14 of the

California Code of Regulations. A violation of an order under this subdivision is a misdemeanor.

(e) A person found guilty of a misdemeanor violation of subdivision (d), or of any regulation adopted by the department pursuant to this section shall be subject to a fine not exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 32. Section 654.5 of the Harbors and Navigation Code is amended to read:

654.5. A person who maliciously throws, hurls, or projects an object by manual, mechanical, or other means at a vessel or an occupant of a vessel on any of the waters within or bordering on this state, which act does not constitute a violation of either Section 242 or 594 of the Penal Code, is guilty of a misdemeanor, and upon first conviction the punishment shall be a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed 30 days, or both that fine and imprisonment. Upon a second conviction, the punishment shall be a fine not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail not to exceed 90 days, or both that fine and imprisonment. Upon a third or subsequent conviction, the punishment shall be a fine not to exceed ten thousand dollars (\$10,000) or imprisonment in the county jail not to exceed one year, or both that fine and imprisonment.

SEC. 33. Section 658.3 of the Harbors and Navigation Code is amended to read:

658.3. (a) A person shall not operate a motorboat, sailboat, or vessel that is 26 feet or less in length, unless every person on board who is under 13 years of age is wearing a type I, II, III, or V Coast Guard-approved personal flotation device while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is under 13 years of age is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is under 13 years of age is in an enclosed cabin.

(c) A person on board a personal watercraft or a person being towed behind a vessel on water skis, an aquaplane, or similar device, except for an underwater maneuvering device intended for use by a submerged swimmer, shall wear a type I, II, III, or V Coast Guard-approved personal flotation device. An underwater maneuvering device is a towed or self-powered apparatus that a person can pilot through diving, turning, and surfacing maneuvers that is designed for underwater use.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that person is a performer engaged in a professional exhibition, or preparing to participate or participating in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a Coast Guard-approved personal flotation device of a type described in this subdivision, a person engaged in slalom skiing

on a marked course or a person engaged in barefoot, jump, or trick waterskiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A Coast Guard-approved personal flotation device of a type described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) The requirements set forth in subdivisions (a) and (c) do not apply to a person operating a motorboat, sailboat, or vessel if the operator is reacting to an emergency rescue situation.

(e) The following definitions govern the construction of this section:

(1) “Enclosed cabin” means a space on board a vessel that is surrounded by bulkheads and covered by a roof.

(2) “Operate a motorboat, sailboat, or vessel” means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) “Underway” means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(f) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.

SEC. 34. Section 660.2 of the Harbors and Navigation Code is repealed.

SEC. 35. Section 668.1 of the Harbors and Navigation Code is amended to read:

668.1. (a) A person convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2, 655.6, 655.7, 658, or 658.5, or of subdivision (a) or (b) of Section 681, or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, or of the federal rules of the road and pilot rules, not including equipment requirements, incorporated by reference in Section 6600.1 of Title 14 of the California Code of Regulations, or found by a court to have performed any of the acts described in Section 6697 of Title 14 of the California Code of Regulations, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) A person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

(c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in

Section 668.3, prescribing the forms for proof of completion and passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

SEC. 36. Section 738 of the Harbors and Navigation Code is amended to read:

738. (a) Each violation of a section or subdivision of a section of this article, excepting Section 709, is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000), provided that a violation committed willfully and with knowledge of the provisions of the violated section or subdivision is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(b) Each violation of Section 709 is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

SEC. 37. Section 780 of the Harbors and Navigation Code is amended to read:

780. (a) A person shall not disconnect, bypass, or operate a marine sanitation device so as to discharge sewage into the waters of this state, unless the particular discharge is expressly authorized or permitted pursuant to state or federal law or regulations. A violation of this subdivision is a misdemeanor.

(b) The following prohibitions apply in no-discharge areas:

(1) A person shall not disconnect, bypass, or operate a marine sanitation device so as to potentially discharge sewage.

(2) A person shall not occupy or operate a vessel in which a marine sanitation device is installed unless the marine sanitation device is properly secured.

The first violation of this subdivision is an infraction punishable by a fine of up to five hundred dollars (\$500). A second or subsequent violation of this subdivision by any one person is a misdemeanor.

(c) A person found guilty of a misdemeanor violation of subdivision (a) or (b) shall be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment.

SEC. 38. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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